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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,077	09/10/2003	Anthony J. Baerlocher	3718611.01530	5899

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EXAMINER	
KIM, ANDREW	
ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
03/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary	Application No.	Applicant(s)	
	10/660,077	BAERLOCHER ET AL.	
	Examiner	Art Unit	
	ANDREW KIM	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In response to the Amendment filed on December 15, 2009, claims 26-35 have been cancelled and claims 1-25 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-6, 10-13, 16-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayeroff (US Pat. No. 6,186,894 B1) in view of Cormack et al. (US Pub. No. 2003/0069056 A1).

Regarding claims 1, 10, 16, 19, 21 and 24, Mayeroff in view of Cormack et al. discloses a gaming device comprising: at least one display device (Mayeroff, Fig. 1, items 20 and 40); at least one input device (Mayeroff, fig. 1, item 80); at least one processor (Mayeroff, col. 5, lines 10-13, claim 13); and at least one memory device which stores a plurality of instructions (Mayeroff, col. 5, lines 10-13, claim 13), which when executed by the at least one processor, cause the at least one processor to operate with the at least one display device and the at least one input device to: (a) enable a player to place a wager on a play of a base game by enabling the player to select a variable first component of said wager (Mayeroff, col. 7, lines 30-43, wager per payline) and a variable different second component of said wager (Mayeroff, col. 7, lines 30-43, number of paylines), said wager having a total value; (b) display an outcome for the play of the base game (Mayeroff, col. 6, lines 5-16); (c) if the player selects at least a threshold amount for the first component of the wager for the play of the base game and the displayed outcome for the play of the base game includes a designated outcome (Mayeroff, col. 7, lines 5-14, a player must first place a threshold wager of at least one payline in order to initiate play and may trigger a bonus game win upon achieving a feature enabling criteria), trigger a bonus game associated with a meter displayed in the bonus game (Cormack et al., Figs. 4-5g, item 54), said meter being

changeable each time the bonus game is triggered (Mayeroff, col. 7, lines 30-43), wherein: (i) each time the bonus game is triggered, said meter is at a displayed predetermined level (Mayeroff, col. 7, lines 30-43; Cormack et al., Figs. 4-5g, item 54, the meter remains displayed between games), and (ii) each time a change of said meter occurs during the bonus game, said change is of an amount which is determined based on the selected different second component of the wager (as per claim 10) for the play of the base game and not based on the total wager value of the wager placed and any outcome which occurs in the play of the base game (Mayeroff, col. 7, lines 30-43, "the number of plays on the secondary event feature is equal to the number of paylines that the player has activated on the main reels" (as per claims 21 and 24) "alternatively, the number of spins can be determined by the number of credits wagered by the player on the paylines," (as per claims 16 and 19); and (d) when said meter reaches a designated level (a number greater than zero), provide an award generation event associated with the meter to the player (Mayeroff, col. 7, lines 30-43; Cormack et al., Figs. 4-5g, item 54, the player may choose to play a free game as per the display in Fig. 5a). Mayeroff substantially discloses the invention as claimed but fails to explicitly teach that the number of plays earned from the play of the base game is displayed in a bonus game. Instead, Mayeroff seems to remains silent if the number of bonus plays/spins is displayed. However, in an analogous reference, Cormack et al. discloses displaying a meter which displays how many free games are available from play of the game (Cormack et al., fig. 5a-g, item 54). One of ordinary skill in the art at the time of the invention would have found it obvious to display the number of available free games to enable the player to know how many free games that player has available to him or her (Cormack et al., paragraph [0008]) and enable a player to select when, during any playing session, that player wishes to play

the free games and the player is not compelled to await the end of such a playing session before the free games are played (Cormack et al., paragraph [0007]) which are features ultimately used as mechanisms for improving sales, retaining customers and attracting new customers (Cormack et al., paragraph [0004]). Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Mayeroff with displaying the number of free games to enable the player to know how many free games that player has available to him or her and enable the player to play the free games at the player's choosing.

Regarding claims 2, 17 and 22, Mayeroff in view of Cormack et al. discloses the bonus game spin meter is affected linearly proportionally based on the second component of the wager (Mayeroff, col. 7, lines 30-43).

Regarding claim 3, Mayeroff in view of Cormack et al. discloses the base game is a slot game (Mayeroff, Fig. 1).

Regarding claims 4, 18 and 23, Mayeroff in view of Cormack et al. discloses causing the at least one processor to cause the meter to remain unchanged upon a cashout by the player (Mayeroff, from col. 6, line 55 to col. 7, line 4, only the credit meter is changed upon a cashout).

Regarding claim 5, Mayeroff in view of Cormack et al. discloses wherein the base game is a slot game and wherein the first component is a number of paylines wagered and the second component is a wager per payline (Mayeroff, col. 7, lines 30-43).

Regarding claim 6, Mayeroff in view of Cormack et al. discloses wherein the base game is a slot game and wherein the second component is a number of paylines wagered and the first component is a wager per payline (Mayeroff, col. 7, lines 30-43).

Regarding claim 11, Mayeroff in view of Cormack et al. discloses the award generation event includes a number of free reel spins (Mayeroff, col. 7, line 45), a number of free games (Mayeroff, col. 7, line 33), a free reel spin with one or more wild symbols, a credit transfer, a credit multiplication, a video display (Cormack et al., Figs. 5a-g), a mechanical display or any combination thereof.

Regarding claims 12 and 13, Mayeroff in view of Cormack et al. substantially discloses the invention as claimed but fails to explicitly teach a controller through a data network including an internet or computer storage device. However, it was notoriously well known at the time of the invention to control and offer gaming devices over data networks including the internet.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayeroff (US Pat. No. 6,186,894 B1) in view of Cormack et al. (US Pub. No. 2003/0069056 A1) and further in view of Moody (US Pat. No. 5,823,873).

Regarding claims 7 and 8, Mayeroff in view of Cormack et al. substantially discloses the invention as claimed but fails to explicitly teach that wherein the first/second component is a number of games/hands played upon making the wager and the other component is the wager per game/hand. Instead, Mayeroff discloses the first/second components may be the wager per pay line and the number of paylines. However, as one of ordinary skill in the art would know, characteristics from video poker and video slots may be interchangeable, thereby enabling an analogous slot machine gaming device such as Moody. Moody discloses a video poker game wherein the player is dealt multiple hands of cards and the player makes multiple wagers on said

hands of cards such that the wagering components consist of the number of hands played and the wager per hand as claimed (Moody, col. 6, lines 22-34, Version #2G). The award is based on these wagering components. Therefore, all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mayeroff (US Pat. No. 6,186,894 B1) in view of Cormack et al. (US Pub. No. 2003/0069056 A1) and further in view of Schneider et al. (US Pat. No. 6,089,976 A).

Regarding claim 9, Mayeroff in view of Cormack et al. substantially discloses the invention as claimed but fails to explicitly teach that the threshold amount for the first component is the maximum amount for the first component. Instead, Mayeroff seems to be silent on whether the player must wager a maximum amount to qualify for a bonus feature. However, this is a well-known bonus trigger requirement because it entices the player to place larger wagers which ultimately increase casino profits. In an analogous reference, Schneider discloses a primary game wherein the player is able to qualify for bonus game play if they wager a maximum amount of credits and obtain a winning outcome (Schneider et al., Fig. 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the maximum wager amount as the bonus triggering event condition. In conclusion, all the claimed elements were known in the prior art at the time of the invention and one skilled in the

art could have combined the elements as claimed by known methods and the combination would have yielded predictable results.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mayeroff (US Pat. No. 6,186,894 B1) in view of Cormack et al. (US Pub. No. 2003/0069056 A1) and further in view of Piechowiak et al. (US Pat. No. 6,168,523 B1).

Regarding claim 14, Mayeroff in view of Cormack et al. substantially discloses the invention as claimed but fails to explicitly teach that a determination of whether the designated outcome in the base game occurs is made prior to the player's play of the base game. Instead, Mayeroff is silent as to the time frame of the determination of the outcomes. However, in an analogous reference, Piechowiak et al. discloses the bonus game may be enabled upon a lapse of a certain amount of time such that the controller knows to initiate the bonus game (by providing a bonus enabling outcome) prior to the player's play of the base game (Piechowiak et al., col. 4, lines 57-64) to increase player appeal by creating anticipation in the player from the possibility of winning simply by playing. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Mayeroff with determination of an outcome before play of the base game to increase player appeal.

8. Claims 15, 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayeroff (US Pat. No. 6,186,894 B1) in view of Cormack et al. (US Pub. No. 2003/0069056 A1) and further in view of Giobbi et al. (US Pat. No. 6,155,925 A).

Regarding claims 15, 20 and 25, Mayeroff in view of Cormack et al. substantially discloses the invention as claimed but fails to explicitly teach that disclose a second bonus game played if the player does not select at least the threshold amount for the first component of the wager in the base game and achieves the designated outcome in the base game. However, in an analogous gaming device reference, Giobbi et al discloses multiple bonus games played in accordance with various wagering thresholds. Specifically, a processor controls the primary game and enables a plurality of different wagers to be made on the primary game and bonus games (Giobbi et al., Abstract). The processor selects a pay schedule having different game outcomes corresponding to a predetermined wager amount such as 1-5,6-10,11-15, etc. credits each having a payout percentage per credit that successively increases as a wager increases. Thus, the pay schedules each correspond to a range of credits wagered shown in Fig. 6a-6e represent a plurality of bonus games. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Mayeroff to include multiple bonus games for varying wagering amounts, as disclosed by Giobbi et al.

Response to Arguments

9. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection. Marks read on the claims because the term "regardless of the total wager value" was understood to mean that a change of the meter amount (CM) is based on the second component (SC) of the wager regardless of the total wager value (TW) but is still a factor in the change amount. CM = SC + TW wherein TW is negligible but still present and the '=' means 'based on.' The amended claims are now CM = SC.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Cheng can be reached on 571-272-4433. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joe H Cheng/
Supervisory Patent Examiner
Art Unit 3714

3/26/2010 /A. K./
Examiner, Art Unit 3714